

Defendants.

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \end{array}$$

CIV-08-1263-HE

Plaintiff has filed a motion for leave to proceed *in forma pauperis* and supporting affidavit. Having reviewed said motion and affidavit, the undersigned finds that Plaintiff has sufficient financial resources to pay the filing fee. Because he does not qualify for authorization to proceed without prepayment of the filing fee, Plaintiff's motion should be denied, and he should be required to pay the full filing fee for this action to proceed.

Based on the foregoing findings, it is recommended that the motion for leave to proceed *in forma pauperis* be DENIED and the action be dismissed without prejudice unless Plaintiff pays the full filing fee to the Clerk of the Court by December 28th, 2008.

Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of this Court by December 28th, 2008, in accordance with 28 U.S.C. §636 and LCvR 72.1. Plaintiff is further advised that failure to make timely objection to this Report and Recommendation waives his right to appellate review of both factual and legal issues contained herein. Moore v. United States of America, 950 F.2d 656 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the undersigned Magistrate Judge in the captioned matter and any pending motion not specifically addressed herein is denied.

ENTERED this 8th day of December, 2008.


GARY M. PURCELL
UNITED STATES MAGISTRATE JUDGE